

**WARRICK COUNTY COUNCIL
ORDINANCE NUMBER 2004-05**

An Ordinance Establishing the Warrick County Sheriff's Merit Board.

WHEREAS, the Warrick County Council desires to implement a merit system to apply to the Sheriff's Office to promote the professionalism of the Sheriff's Office; and

WHEREAS, Indiana Code § 36-8-10-3 establishes that the fiscal body of this county create, by ordinance, a Sheriff's Merit Board to be known as the Warrick County Sheriff's Merit Board.

NOW, THEREFORE, BE IT ORDAINED by the Warrick County Council, as follows:

Section 1. Membership of Merit Board.

(A) The board shall consist of five (5) members. Three (3) members shall be appointed by the Sheriff, and two (2) members shall be elected by a majority vote of the members of the county police force under procedures established by the Sheriff's Merit Board.

(B) Appointments are for terms of four (4) years or for the remainder of an unexpired term.

(C) All members serve during their respective terms and until their successors have been appointed and qualified.

(D) A member may be removed for cause duly adjudicated by declaratory judgment of the Circuit Court of the County.

Section 2. Restrictions on Membership to Merit Board.

(A) No active county police officer may serve on the board.

(B) Not more than two (2) of the members appointed by the Sheriff nor more than one (1) of the members elected by the officers may belong to the same political party.

(C) All members must reside in Warrick County.

Section 3. Compensation for Members of Merit Board.

As compensation for service, each member of the board is entitled to receive from the county a minimum of fifteen dollars (\$ 15) per day for each day, or fraction of a day, that the member is engaged in transacting the business of the board.

Section 4. Positions Held on Merit Board.

As soon as practicable after the members of the board have been appointed, they shall meet upon the call of the Sheriff and organize by electing a president and a secretary from among their membership.

Section 5. Meeting Requirements of Merit Board.

(A) The board shall hold regular monthly meetings throughout the year as is necessary to transact the business of the Sheriff's Office.

(B) Three (3) members of the board constitute a quorum for the transaction of business.

(C) To comply with Indiana's Open Door Law, all meetings must be open to the public at all times for the purpose of permitting members of the public to observe and record them.

(1) A secret ballot vote may not be taken at meetings.

(2) However, a meeting conducted in compliance with Ind. Code § 5-1.5-2-2.5 does not violate this section.

Section 6. Promotion of Retiring Sheriff.

The Merit Board may develop its own reasonable procedures and qualifications to govern the promotion of a retiring Sheriff. The Merit Board is not required to follow the competitive testing procedures under I.C. § 36-8-10-10 if the Merit Board has developed its own procedures.

Section 7. Disciplinary Procedures.

(A) Charges against a county police officer must be made in writing and the Merit Board must conduct a fair public hearing before the Sheriff may dismiss, demote, or temporarily suspend a county police officer for cause.

(1) Written notice of the charges and hearing must be delivered by certified mail to the officer to be disciplined at least fourteen (14) days before the date set for the hearing.

(2) The officer may be represented by counsel.

(3) The Merit Board shall make specific findings of fact in writing to support its decision.

Section 8. Exceptions to Disciplinary Proceedings.

(A) The Sheriff may temporarily suspend an officer with or without pay for a period not exceeding fifteen (15) days, without a hearing before the Merit Board, after preferring charges of misconduct in writing delivered to the officer. The decision of the Sheriff is nonreviewable.

(1) An officer on probation may be dismissed by the Sheriff without a right to a hearing.

Section 9. Appeal of Merit Board Decision.

(A) An appeal under section 7 must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the officer, the decision of the board, and a demand for the relief asserted by the officer.

(1) A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs only if the court finds that the

board's decision should be affirmed. The bond must be approved as bonds for costs are approved in other cases.

(2) Warrick County must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county.

(3) Neither the Merit Board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(B) All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the Merit Board was made.

(C) Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of all papers, entries, and other parts of the record relating to the particular case.

(D) Inspection of these documents by the person affected, or by the person's agent, must be permitted by the Merit Board before the appeal is filed, if requested.

(E) The court shall review the record and decision of the board on appeal.

(F) The court shall make specific findings and state the conclusions of law upon which its decision is made.

(1) If the court finds that the decision of the Merit Board appealed from should in all things be affirmed, its judgment should so state.

(2) If the court finds that the decision of the Merit Board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it.

(3) The court shall either:

- (a) Reverse the decision of the Merit Board; or
- (b) Order the decision of the Merit Board to be modified.

(G) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the board, which shall conform its decisions and records to the order and judgment of the court.

(H) If the decision is reversed or modified, then the Merit Board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

(I) Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases.

(J) The rules of trial procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.

(K) An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.

Section 10. Subpoena Powers of Merit Board.

The Merit Board has subpoena powers enforceable by the circuit court for hearings under sections 7, 8, and 9.

Section 11. Consideration of Political Affiliation Prohibited.

(A) A county police officer may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the officer's probationary period, except as provided in this section. An officer may:

- (1) Be a candidate for elective office and serve in that office if elected;
- (2) Be appointed to an office and serve in that office if appointed; and
- (3) Except when in uniform or on duty, solicit votes or campaign funds for the officer or others.

Section 12. Classification of Ranks for County Police Officers.

(A) The Sheriff, with the approval of the Merit Board, shall establish a classification of ranks, grades, and positions for county police officers in the department. For each rank, grade, and position established, the Sheriff, with the approval of the Merit Board, shall:

- (1) set reasonable standards of qualifications; and
- (2) fix the prerequisites of:
 - (a) training;
 - (b) education; and
 - (c) experience.

(B) The Sheriff, with the approval of the Merit Board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions.

(1) After these examinations, the Sheriff and the Merit Board shall jointly prepare a list naming only those applicants who, in the opinion of both the Sheriff and the merit board, best meet the prescribed standards and prerequisites.

(2) The Sheriff appoints county police officers but only from among the persons whose names appear on this list.

(3) All county police officers appointed to the office under this chapter are on probation for a period of one (1) year from the date of appointment.

(C) However, the Sheriff does not need the Merit Board's approval to do the following:

(1) establish a temporary administrative rank or position within the county police department; or

(2) appoint a county police officer that has served as a county police officer for at least five (5) years to and remove a county police officer from a temporary administrative rank or position. Any temporary administrative rank or position established pursuant to this section shall not diminish or reduce the number and classifications of the existing merit ranks within the county police department.

(a) A county police officer appointed under this subsection must have served as a county police officer in the county police department for at least five (5) years before the appointment.

(b) A county police officer retains the rank, grade, or position awarded under subsection (B) while serving in a temporary administrative rank or position.

(c) This subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

Section 13. Rules and Regulations.

(D) The Sheriff, with the approval of the Merit Board, shall establish written rules and regulations governing the discipline of county police officers. Rules and regulations established by a Sheriff under this subsection must conform to the disciplinary procedures required by section 7 [IC 36-8-10-11] of this chapter.

Section 14. Sheriff's Authority

The Sheriff shall have continuing authority to establish rules and regulations of the Sheriff's Office. The Sheriff shall also have continuing authority over supervision and management of all personnel and operations of the Sheriff's Office.

This Ordinance shall be in full force and effect from and after its passage and execution by the Warrick County Council.

Passed by the Warrick County Council this 2nd day of Sept., 2004.

WARRICK COUNTY COUNCIL

Gary Meyer, President

Raymond Bracher
Raymond Bracher

David Hachmeister
David Hachmeister

Raymond McIntyre
Raymond McIntyre

Robert Addington
Robert Addington

Joseph Schitter
Joseph Schitter

Greg Richmond
Greg Richmond

ATTEST:

Richard D. Kixmiller
Richard Kixmiller, Auditor